

Appendix C

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

A. Economic, small business and consumer impact summary

1. Proposed rulemaking.

The proposed rules provide a framework for consumer protections against unauthorized carrier changes and charges commonly referred to as "slamming" and "cramming." Slamming is changing a customer account from the authorized carrier to an unauthorized carrier. Cramming is adding charges for services on a customer's bill without proper authorization.

2. Brief summary of the economic impact statement.

The proposed rulemaking on slamming and cramming will affect consumers of telecommunications services and companies providing those services.

Costs of the proposed rulemaking include costs related to new tasks at the Commission such as responding to and reviewing informal complaints, reviewing company scripts and records, reviewing requests for waivers, and compliance and enforcement.

Costs to telecommunications companies would include paying penalties or having sanctions imposed for slamming and cramming, obtaining subscriber authorization and verification, notifying subscribers of rights, submitting scripts and records to the Commission, and applying for waivers.

Benefits of the proposed rulemaking may include a decrease in slamming and cramming and an increase in telecommunications competition in the State of Arizona.

The proposed rulemaking is deemed to be the least intrusive and least costly alternative of achieving the whole purpose of the proposed rulemaking.

Because adequate data are not available, the probable impacts are explained in qualitative terms.

3. Name and address of agency employees to contact regarding this statement.

Marta Kalleberg and Timothy J. Sabo, Esq. at the Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007.

B. Economic, small business and consumer impact statement.

1. Identification of the proposed rulemaking.

The proposed rules provide a framework for consumer protections against unauthorized carrier changes and charges commonly referred to as "slamming" and "cramming."

Slamming is changing a customer account from the authorized carrier to an unauthorized carrier. Cramming is adding charges for services on a customer's bill without proper authorization.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.

- a. Consumers of telecommunications services throughout the State of Arizona
- b. Telecommunications companies in the State of Arizona over which the Commission has jurisdiction and that are public service corporations
 - i. Interexchange carriers
 - ii. Local exchange carriers
 - iii. Wireless providers
 - iv. Cellular providers
 - v. Personal communications services providers
 - vi. Commercial mobile radio services providers

3. Cost-benefit analysis.

a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking.

Costs of the proposed rulemaking include costs related to new tasks at the Commission. For example, the Commission will need to: 1) respond to and review informal complaints by consumers notifying the Commission of unauthorized changes or charges, 2) make recommendations related to informal complaints, 3) review company scripts, 4) review company records related to subscriber's request for services or products, 5) review company records related to subscriber verification and unauthorized changes, 6) monitor compliance, 7) enforce penalties or sanctions, 8) coordinate enforcement efforts with Arizona Attorney General, and 9) review company requests for waivers.

Benefits of the proposed rulemaking may include a decrease in slamming and cramming consumer complaints being received at the Commission. Due to the imposition of penalties for slamming and cramming, less slamming and cramming may occur which would result in a decrease in complaints related to these issues being received at the Commission.

Benefits of the proposed rulemaking to the Arizona Attorney General are an increased level of coordination of efforts aimed at prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices.

b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.

Implementation of the proposed rules should result in no increased costs to political subdivisions. However, to the extent that these political subdivisions contain

consumers of telecommunications services, they may benefit by less slamming and cramming and an increase in competition in the area.

c. Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.

Costs to telecommunications companies would include: 1) obtaining subscriber authorization for changes and charges, 2) obtaining verification of that authorization, 3) maintaining and preserving records of verification, 4) notifying subscribers of rights, 5) paying for costs to subscriber of unauthorized changes and charges 6) resolving slamming and cramming complaints, 7) submitting scripts to the Commission, 8) submitting of company records upon request of the Commission, and 9) applying for waivers.

Telecommunications companies can derive additional revenue from slamming and cramming practices. To the extent that these rules discourage this practice, these companies may refrain from slamming and cramming which would result in a decrease in revenue. Telecommunications companies can be assessed penalties for slamming or cramming. This would result in a decrease in income.

Sanctions can also be imposed under the proposed rulemaking, including: 1) revocation of the Certificate of Convenience and Necessity 2) prohibition from further solicitation of new customers for specified period of time; and 3) other penalties allowed by law, including monetary penalties.

Companies may need to hire additional staff to comply with the requirements of the proposed rulemaking. This would increase payroll expenditures. However, to the extent that these rules discourage slamming and cramming, employees hired to slam and cram subscribers, may be relieved of their positions, which may result in a decrease in payroll expenditures.

4. Probable impacts on private and public employment in business, agencies, and political subdivision of this state directly affected by the proposed rulemaking.

Employment could be enhanced since the reduction of slamming and cramming would bring about a more competitive telecommunications marketplace, which may increase employment in the telecommunications industry.

5. Probable impact of the proposed rulemaking on small business.

a. Identification of the small businesses subject to the proposed rulemaking.

Businesses subject to the proposed rulemaking are small, intermediate, and large telecommunications providers. However, few telecommunications providers subject to this rule are small businesses as defined by A.R.S. § 41-1001.19.

b. Administrative and other costs required for compliance with this proposed rulemaking.

Costs of the proposed rulemaking include costs related to new tasks at the Commission. For example, the Commission will need to: 1) respond to and review informal complaints by consumers notifying the Commission of unauthorized changes or charges, 2) make recommendations related to informal complaints, 3) review company scripts, 4) review company records related to subscriber's request for services or products, 5) review company records related to subscriber verification and unauthorized changes, 6) monitor compliance, 7) enforce penalties or sanctions, and 8) review company requests for waivers.

Costs to telecommunications companies would include: 1) obtaining subscriber authorization for changes and charges, 2) obtaining verification of that authorization, 3) maintaining and preserving records of verification, 4) notifying subscribers of rights, 5) resolving slamming and cramming complaints, 6) submitting scripts to the Commission, 7) submitting of company records upon request of the Commission, and 8) applying for waivers.

c. A description of the methods that the agency may use to reduce the impact on small businesses.

The agency has tried to reduce the impact on small business by creating proposed rules that are a product of the collective efforts of the telecommunications industry to establish acceptable slamming and cramming rules. The rules also provide that the rules may be waived if in the public interest.

d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

Consumers of telecommunications services would not experience a specific dollar cost related to the proposed rulemaking. However, the proposed rulemaking may increase the time that consumers spend to change carriers or add telecommunications services.

Benefits to consumers would include a reduction in slamming and cramming and potentially more cooperative telecommunications companies when slamming and cramming do occur.

Benefits may also include an increase in employment opportunities in the telecommunications industry due to a more competitive telecommunications marketplace.

Consumers may also benefit from increased fair competition by providers of telecommunications services.

1 **6. A statement of the probable effect on state revenues.**

2 The proposed rulemaking may result in an increase in state revenues if penalties are
3 imposed on telecommunications companies for slamming and cramming.

4 **7. A description of any less intrusive or less costly alternative methods of achieving the
5 purpose of the proposed rulemaking.**

6 One less intrusive and possibly less costly alternative method of achieving the purpose of
7 the proposed rulemaking is to review consumer complaints of slamming and cramming on
8 a case by case basis under the Commission's current authority. However, this method may
9 be more costly since it does not contain the efficiencies of the proposed rulemaking. Also,
10 the result may not be as effective since the Commission and consumers may not have
11 access to the same level of information as they would under the proposed rulemaking.

12 Therefore, alternative methods of achieving the purpose of the proposed rulemaking may
13 be less intrusive and costly, but may not adequately achieve the purpose of the proposed
14 rulemaking. The proposed rulemaking is deemed to be the least intrusive and least costly
15 alternative of achieving the whole purpose of the proposed rulemaking.

16 **8. If for any reason adequate data are not reasonably available to comply with the
17 requirements of subsection B of this section, the agency shall explain the limitations
18 of the data and the methods that were employed in the attempt to obtain the data
19 and shall characterize the probable impacts in qualitative terms.**

20 Adequate data are not available to comply with the requirements of subsection B.
21 Therefore, the probable impacts are explained in qualitative terms.
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